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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,085

09/30/2003

Moshe Valenci

P16577

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07/08/2008

KONRAD RAYNES & VICTOR, LLP.

ATTN: INT77

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BEVERLY HILLS, CA 90212

EXAMINER

CLOUD, JOIYA M

ART UNIT

PAPER NUMBER

2144

MAIL DATE

DELIVERY MODE

07/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,085	<b>Applicant(s)</b> VALENCI, MOSHE	
	<b>Examiner</b> Joiya M. Cloud	<b>Art Unit</b> 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/10/2008</u>  | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

1. This action is responsive to the communication filed on 02/12/2008. Claims 1-27 are pending. Applicant's arguments have been considered, but are moot in view of new ground(s) of rejection. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/10/2008 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-27** are rejected under 35 U.S.C. 102(e) as being anticipated by Mitchell et al  
**(US Patent No. 6,230,181 B1).**

**As per claim 1**, Mitchell teaches a method for maintaining a link between a first network entity and a second network entity, wherein the first network entity includes a network adapter,

comprising: at a first network entity, in response to the driver shutting down and reloading with new settings, determining whether the driver was reloaded before a link-shutdown timer expired (**col. 5, lines 67-col. 6, lines 1-8 and Figure 5 where the link-shutdown timer is the watchdog timer. The shutdown management driver** ), wherein the link-shutdown timer is associated with the link and is started in response to the driver starting a shutdown sequence (**Figure 5, item s2**); continuing processing without dropping the link to prevent the link from being detected as unavailable by and external network entity (**it is noted that the preventing limitation is merely what the method intends do and thus holds no patentable weight, Examiner however submits that Mitchell teaches where hardware reset is inhibited so that processing continues, col. 6, lines 51-53**), in response to the driver being reloaded before the link-shutdown timer expired (**timer timeout**); and dropping the link, in response to the driver not being reloaded before the link-shutdown timer expired (**col. 6, lines 9-21**).

**As per claim 2**, Mitchell teaches a method further performing: determining, whether a register has a value indicating that the driver has been loaded (**col. 5, lines 34-40**).

**As per claim 3**, Mitchell teaches a method further performing: determining, whether the link-shutdown timer has expired; and periodically determining, whether the driver was loaded in response to determining that the link-shutdown timer has not expired (**col. 5, lines 67-col. 6, lines 1-8 and Figure 5**).

**As per claim 4**, Mitchell teaches a method further performing determining, whether the link-shutdown timer has expired; and periodically determining, whether the driver was loaded in

response to the driver not being loaded and the link-shutdown timer not having expired (**col. 5, lines 67-col. 6, lines 1-8 and Figure 5**).

As per **claim 5**, Mitchell teaches a method implemented in a driver executing in a first network entity for maintaining a link between the first network entity and a second network entity, wherein the driver at the first network entity performs: starting a shutdown sequence; in response to determining that the link does not need to shut down, starting a link-shutdown timer for dropping the link; in response to the driver starting a load sequence and determining that the link-shutdown timer is enabled and has not expired, determining whether the link is available (**col. 5, lines 46-51**), wherein the link is determined to be available when the driver is reloaded with new settings before the link-shutdown timer has expired; and continuing processing without renegotiating the link in response to the link being available (**col. 6, lines 53-65**).

As per **claim 6**, Mitchell teaches a method wherein the driver further performs renegotiating the link in response to the link not being available, wherein the link is not available when the driver is not reloaded before the link-shutdown timer has expired (**col. 6, lines 15-21, the link is shutdown as a result of conditions of the watchdog timer timed out**).

As per **claim 7**, Mitchell teaches a method wherein the driver further performs: determining, whether flow control is enabled; and sending an indicator to the second network entity to indicate that the second network entity is to stop sending data packets to the first network entity in response to flow control being enabled (**col. 5, lines 44-50 and col. 6, lines 50-57, indicator corresponds to the interrupt signal**).

**As per claim 8**, Mitchell teaches a method wherein after the driver is reloaded, the driver further performs: determining whether flow control is enabled; and sending an indicator to the second network entity to indicate that the second network entity is to start sending data packets to the first network entity in response to flow control being enabled (**col. 5, lines 34-40 and col. 6, lines 53-65**).

**As per claim 9**, Mitchell teaches a method further performing: when the driver is reloaded, disabling the link-shutdown timer in response to the link-shutdown timer being enabled and not being expired (**col. 6, lines 62-65**).

**As per claims 10-13**, claims 10-13 lists all the same elements as claims 1-4, but in system form rather than method form. Therefore, the rejection for claims 1-4 applies equally as well to claims 10-13.

**As per claims 14-18**, claims 14-18 lists all the same elements as claims 5-9, but in system form rather than method form. Therefore, the rejection for claims 5-9 applies equally as well to claims 14-17.

**As per claims 19-22**, claims 19-22 lists all the same elements as claims 1-4, but in article of manufacture form rather than method form. Therefore, the rejection for claims 1-4 applies equally as well to claims 10-13.

**As per claims 23-27**, claims 23-27 lists all the same elements as claims 5-9, but in article of manufacture form rather than method form. Therefore, the rejection for claims 5-9 applies equally as well to claims 23-27.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***JMC***

**/Jeffrey Pwu/**

**Supervisory Patent Examiner, Art Unit 2146**

Application/Control Number: 10/675,085  
Art Unit: 2146

Page 7